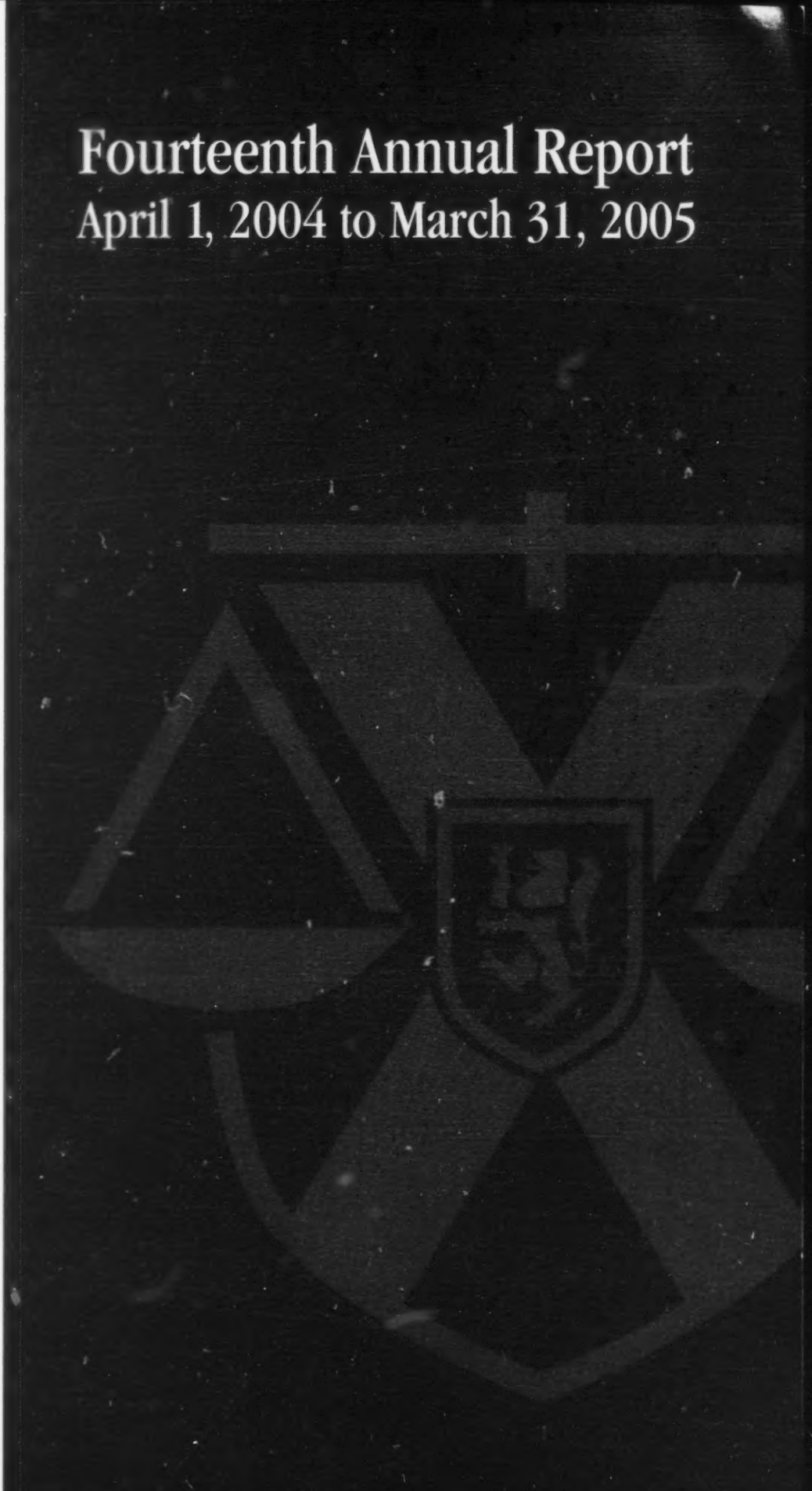
LAW REFORM
COMMISSION
OF
NOVA SCOTIA

Fourteenth Annual Report
April 1, 2004 to March 31, 2005



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LAW REFORM
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NOVA SCOTIA

FOURTEENTH ANNUAL REPORT

April 1, 2004 to March 31, 2005

The Law Reform Commission of Nova Scotia was established by the Government of Nova Scotia under the Law Reform Commission Act, S.N.S. 1990, c.17. It began operation in 1991.

The Commissioners for 2004-2005:

Keith R. Evans, President
Anthony R. Chapman (from June 2004)
Thomas A. Cromwell
Diana Ginn
Darlene Jamieson
Donald H. McDougall (resigned June 2004)
E. Arleen Paris

The Commission staff in 2004-2005:

John E.S. Briggs
Executive Director and General Counsel

William H. Laurence
Legal Research Counsel

Mary Bowen,
Administrative Assistant

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The work of the Law Reform Commission of Nova Scotia for fiscal year April 1, 2004 - March 31, 2005 was funded by the Law Foundation of Nova Scotia and by the Government of Nova Scotia.
The Commission gratefully acknowledges this financial support.

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A. OVERVIEW OF THE LAW REFORM COMMISSION

The Law Reform Commission of Nova Scotia was created by the Government of Nova Scotia under the *Law Reform Commission Act.*[1] The Commission consists of between five and seven Commissioners (there are currently six), an Executive Director and legal research and administrative staff. The Commission reports to the public and the elected representatives of Nova Scotia through the Attorney General of Nova Scotia. It is not, however, a government department, but an independent advisor to government. The Commissioners, whose appointment process is set out in the *Act*, currently serve part-time and come from different sectors of the community. One Commissioner is a judge appointed by the Governor in Council (provincial Cabinet) after consultation with the Chief Justice of Nova Scotia and the chief judge of the court of which the judge is a member; two are community representatives appointed by Cabinet; two are appointed by the Council of the Nova Scotia Barristers' Society; and one person represents the full-time members of the Faculty of Law, Dalhousie University. One of the Commissioners must not be a graduate in law.

Mandate

The Commission's job is to review Nova Scotia law and to make recommendations for its improvement, modernization and reform. This may involve formulating new ideas and approaches to law, or proposing ways in which existing laws and the legal system can be made clearer or simpler to better serve the needs of the province. The Commission may choose a topic for law reform based upon suggestions received from government, lawyers, judges, or the community. A project may also follow a government request, generally known as a reference. Since 1991, the Commission has received four references from the Government. The references related respectively to the administrative justice system, the probate system, mental health provisions of the *Hospitals Act*, and adoption information law.[2]

The Commission does not make law in Nova Scotia; that task is performed in part by the elected Members of the House of Assembly. The Commission's reports and recommendations are, however, formally presented to the Attorney General and may result in changes to the law. Law is also made through the decisions of judges and appointed administrative decision-makers in cases that come before them.

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[1] S.N.S. 1990, c.17, reproduced at **Appendix A**.

[2] Reports on the administrative justice, probate, and *Hospitals Act* projects have been completed. Following completion of background research, work on adoption information law was suspended after news in 2000 of the loss of government funding. The project was subsequently referred to a committee formed by the Minister of Community Services.

A distinguishing characteristic of the Commission is its independence from government. Although in the past the Commission received a significant portion of funding from government, on average about one third of its money came from other sources. Government has a role in Commissioner selection, but does not choose all of the Commissioners, and no Commissioner is chosen to represent the Government. The Commission does undertake government requests for law reform projects, as far as is feasible, but apart from that requirement, is free to select the work it undertakes. So long as done in compliance with its object and powers under the *Act*, the Commission enjoys a free hand in terms of its activities: it may conduct meetings, hire people, perform research, publish reports, enter into cooperative arrangements with other entities, and decide how its funds are to be spent.

Law Reform Process

The Commission usually prepares two publications during the course of a project. The first publication, the ***Discussion Paper***, sets out the Commission's preliminary suggestions for reform. The purpose of the Discussion Paper is to encourage people to consider and comment on the Commission's preliminary suggestions, as well as any issues, principles, and assumptions identified as having influenced the Commission's proposals for reform.

As part of the preparations for a Discussion Paper, the Commission generally forms an ***Advisory Group***. The Advisory Group usually consists of Commission legal staff, and a number of community members, including government representatives, the judiciary, lawyers and other professionals, as well as participants from groups with interest or expertise in the topic being studied. The Group meets to identify and discuss relevant issues, as well as to propose to the Commission what should be included in a Discussion Paper.

The second publication is a ***Final Report,*** which is submitted to the Attorney General, and which is widely distributed. It contains the final recommendations of the Commission and, in some cases, a draft law. The Commission makes its final recommendations after it takes into account the responses it receives to the Discussion Paper. A Final Report is intended to provide a basis for the Government to consider and adopt the recommended reforms. The process adopted by the Commission, of seeking expert advice, consulting widely, synthesizing feedback, deliberating and report writing, is a time-consuming one. It is a process, however, which is designed to give greater weight and credibility to the final recommendations which result. The Commission does not engage in active advocacy regarding implementation of its recommendations beyond providing the recommendations to the Government and members of the public. The Commission has produced 34 project reports and 13 annual reports, which are listed at **Appendix C**. [All reports can be downloaded without cost from the Commission's website.]

Effects of Law Reform Work

Recommendations in Commission Final Reports have been brought into effect in a number of ways.

Most recently, the Nova Scotia Government amended the province's *Mechanics' Lien Act*, thereby implementing most of the recommendations in the Commission's June 2003 Final Report on builders' liens. The influence of the Commission's work, however, goes beyond legislation. Certain Final Report recommendations have been implemented through government policies or protocols. Commission reports have also served an important educational function and have been used as course materials in high schools and at post-secondary institutions. Government, public interest groups, and other organizations have relied on Commission reports in order to develop awareness of issues and to focus discussions among interested people. For instance, *Law Reform Agencies*, a 2004 publication of the International Cooperation Group of the Federal Department of Justice, reflected the influence of Commission reports.

The contents of Commission reports have been referred to by a number of courts, including the Supreme Court of Canada, as part of their published case decisions. Judges have mentioned Commission reports in the context of interim payment of damages, matrimonial property, administrative law, the jury system, powers of attorney and the legal status of the child born outside of marriage.

Nova Scotia House of Assembly members from the Liberal, New Democratic, and Progressive Conservative parties have referred with approval to Commission reports or to Commission work generally, during the course of legislative debates.

Most of the Commission's time is spent choosing, discussing, and researching law reform subjects, followed by report writing and communicating the conclusions reached. Another significant role of Commission staff is responding to inquiries about the law or about aspects of the Commission's work. The Commission does not provide legal advice, nor does it intervene in individual cases. Nonetheless, Commission staff continue to respond to inquiries by telephone, by fax, by letter, by e-mail, or in person. In replying to inquiries, Commission staff have provided legal information, copies of Commission reports as well as other documents, and contact details for government departments and other relevant institutions.

Funding

The Commission is currently funded jointly (50% each) by the Nova Scotia Department of Justice and the Law Foundation of Nova Scotia. The Law Foundation, which funds work relating to the law, legal education, and the administration of justice, obtains its funds from the interest on lawyers' general trust accounts. The Law Foundation's objects specifically include law reform.[3]

[3] *Barristers and Solicitors Act*, R.S.N.S. 1989, c. 30, s. 55.

B. THE YEAR IN REVIEW 2004-2005

Work Program and Publications:

1. The Rules Revision Project

The fiscal year just ended (March 31, 2005) was unique in that for the first time the focus of the Law Reform Commission's work was not on examining the laws of the province with a view to recommending changes, but rather on revision of the Civil Procedure Rules that guide the workings of Nova Scotia courts.

The Civil Procedure Rules have not been reviewed in depth for over thirty years, and while they have served the province and its people well, it was deemed appropriate to re-examine them, change them if necessary, add to them where appropriate and discontinue aspects no longer relevant. The Supreme Court invited the Law Reform Commission to be a part of this process.

Review of the Rules began in earnest early in 2004 when a Steering Committee comprised of members of the Bench, Bar and the Department of Justice was struck. The Law Reform Commission would provide administrative and research support to the Steering Committee as well as to eight working groups, mandated to examine various aspects of the individual Rules and, as appropriate, make recommendations for their revision.

It was anticipated that supporting this important undertaking would be the Commission's principal occupation in the fiscal year ending March, 2005 - and it was, largely to the exclusion of discussion papers and final reports which would normally have been produced.

Every meeting of every working group and of the Steering Committee was attended by one or more representatives from the Law Reform Commission of Nova Scotia. Every group called upon the Commission for research materials, and the Commission independently sought materials it considered useful. To initiate the public consultation process, the Law Reform Commission published an Issues Memorandum in June 2004. To ensure input from the Nova Scotia Bar, a series of meetings with Bar members was scheduled throughout the province in the fall of 2004. The public was canvassed through a series of newspaper ads which drew submissions from interested citizens of varied backgrounds and interests, and an interactive website was developed to further invite participation by all Nova Scotians.

The Rules Revision Project progressed well throughout 2004, with all working groups meeting regularly and finally submitting the bulk of their recommendations to the Steering Committee by the end of March 2005.

Although the Rules Project was, for the most part, all consuming, the Commission completed its work on two papers previously begun:

2. **Privity of Contract: (Third Party Rights):** Final Report issued August 2004
The concept of privity provides that only a party to a contract may sue or be sued under it. The concept has two parts. First, only a party to a contract may enforce its terms. Second, a contract cannot impose obligations on a person who is not a party to the contract. The first part of the concept can lead to inconvenience or hardship with respect to those contracts, sometimes known as third party beneficiary agreements, which seek to provide a benefit to a person who is not a party to the contract. A benefit could involve the receipt of something, such as a payment of money, or it could mean a right to avoid or lessen the effect of something, such as a limitation on liability.

The range of possible third party beneficiary agreements is quite wide. They could be especially relevant in the context of family gifts, small business transactions, banking arrangements, and employment situations. Regardless of the benefit involved, the third party meant to benefit can obtain no rights under such a contract and will therefore not be able to enforce it.

The major recommendation of the Commission's Final Report was that the privity of contract concept should be relaxed by statute, to allow third party beneficiaries to enforce their rights under a contract. The Report's other recommendations included: under the proposed statute, a third party beneficiary would be identified in a contract by name, description, or reference to a class; the proposed statute would allow for third party beneficiaries who are not known or in existence at the time a contract is made; the proposed statute would make no distinction between express and implied third party benefits; and a third party beneficiary should not be able to enforce a benefit where the contract's language makes it clear that the parties did not intend their agreement to be enforceable by a third party.

3. **Court-ordered structured settlements-Personal Injury Damage Awards**
Preliminary work on this project began in the latter part of 2002. Initially the project concerned itself with the issue of whether or not the courts in Nova Scotia should have jurisdiction in certain circumstances to order the imposition of a structured settlement when awarding damages in personal injury cases.

Shortly before the anticipated publication of a Commission Discussion Paper on this subject, the Government introduced and passed legislation amending the *Judicature Act* which, amongst other things, provides the courts with the jurisdiction to order structured settlements in personal injury cases. As a result, the original purpose of this project became effectively moot.

The Commission had, however, gathered some potentially useful information with respect to structured settlements and those circumstances in which the courts may find their use to be appropriate. The Commission decided therefore to re-draft the Discussion Paper with a view to making available a background paper for the information of those most interested in the use of structured settlements, namely judges, lawyers and recipients of personal injury damage awards. The background paper was released in August of 2004.

Work in Progress

- Rules Revision Project
  The Civil Procedure Rules Revision Project continues to be the pre-occupation of the Commission. During the upcoming summer months, the Commission will be engaged in carrying out a number of research assignments in support of the drafting stage of this project, which will commence in September 2005. The drafting process will be spearheaded by a Supreme Court justice, assisted by a senior solicitor on secondment from the Department of Justice. The Commission anticipates being fully engaged in supporting the work of the Steering Committee throughout the fall and winter months as well as the work of two drafting sub-committees. In addition, it is expected there will be several task forces struck to address outstanding issues.

- Other Projects
  The Commission expects to undertake one or more discrete projects in addition to its work with respect to the Rules Revision Project. Although there were a number of projects under active discussion at the end of the reporting period, no decisions had yet been taken with respect to the Commission's next project.

Partnership: Saint Mary's University

In July 2003, the Law Reform Commission of Nova Scotia and Saint Mary's University signed a formal Memorandum of Understanding setting out the cooperative arrangements and terms of a partnership. Both the University and the Commission believe that Saint Mary's affiliation with the Canadian Centre for Ethics and Public Affairs, the Atlantic Metropolis Centre[4], as well as various University departments and schools, provide a number of potential opportunities for the pursuit of activities and projects of mutual interest. Though the Rules Project work has precluded the Commission's taking on new projects in the fiscal year just ended, such collaborative activities with Saint Mary's have been, and continue to be a matter of active discussions. In furtherance of our

[4] Metropolis is an international forum for research and policy on migration, diversity and changing cities.

partnership with Saint Mary's, a meeting between Commissioners and senior administrators and faculty of Saint Mary's University has been scheduled for early in the next fiscal year. There is optimism that a mutually suitable project will be found in the coming year.

External Activities and Relations

The Commission and its staff consider it particularly important to maintain close liaison with the practicing bar, the judiciary, the legal academic community, the Government and others. The liaison with the Nova Scotia Bar was strengthened in the fall of 2004 when, as one component of the Rules Revision Project, and in concert with the Bench, consultative meetings were arranged throughout the province. This provided an excellent opportunity to meet with representatives from the Bar; to explore their concerns with changes to the Civil Procedure Rules with which they work, and to invite input to the revision process.

Commission staff have attended and participated in a number of external meetings and conferences during the past year in addition to many less formal activities. In particular the Commission's Executive Director participated in the Annual Meetings of:

- the Nova Scotia Barristers' Society
- the Federation of Law Reform Agencies of Canada
- the Uniform Law Conference of Canada
- the Association of Canadian Court Administrators

In addition the Executive Director attended various meetings and events hosted by such organizations as the Legal Information Society of Nova Scotia, the Canadian Bar Association - Nova Scotia Branch, the Nova Scotia Barristers' Society and the Law Commission of Canada.

The Commission has also continued to maintain and strengthen its relations with sister law reform bodies and other participants in the justice system. The Executive Director is the current President of the Federation of Law Reform Agencies of Canada and in that capacity made a presentation to the Canadian Bar Association's Board Meeting in August 2004.

The Commission's Legal Research Counsel attended a government-sponsored conference on mental health legislation in Canada, in February 2005, and he continues to receive inquiries relating to the Commission's 2002 report, ***Mental Health Provisions of the Hospitals Act***.

During the reporting period Commission work was mentioned in such news media as the *Cape Breton Post*, the *Chronicle Herald*, the *Daily News* (Halifax), and the *Lawyers' Weekly*. Commission reports were also mentioned in Canadian Bar Association and Nova Scotia Barristers' Society publications, other law reform agencies' reports and Nova Scotia Government publications and

appeared on websites such as the Canadian Paraplegic Association (NS) and the CBC. During this reporting period, the Commission's reports were referred to on several occasions in the Nova Scotia House of Assembly.

The Commission's website continues to maintain an open invitation to the public for project suggestions and new ideas for law reform. As well, the Nova Scotia Courts website links to that of the Law Reform Commission for interaction concerning the Rules Revision Project.

Internal Administration and Organization

The Commission currently has six Commissioners. A seventh position is vacant.

In the past year the Commissioners met on four occasions.

John E.S. Briggs continued to serve as Executive Director and General Counsel and William Laurence as Legal Research Counsel. The Commission's Administrative Assistant is Mary Bowen.

The Commission was fortunate this year to arrange for the part time services of William H. Charles, Q.C. as a special advisor to the Commission with particular responsibilities with respect to the Rules Project.

Funding & Finances

From 2001 the Commission had been wholly funded by the Law Foundation of Nova Scotia by virtue of a three-year grant of core funding in the amount of $250,000 per annum (granted April 2001). The Commission is most appreciative of the Law Foundation's support, without which it could not have continued to operate.

At the close of the 2003 fiscal year, the Government of Nova Scotia agreed to provide 50% funding for the years 2004-05 and 2005-06 ($250,000 in total) as well as $5,000 supplementary funding to support the Rules Project in 2004-05. The Commission subsequently received an additional $20,000 of supplementary Government funding in support of the Rules Revision Project for fiscal year 2005-06. In February of 2005, the Law Foundation granted the Commission 50% of the 2005-06 funding ($125,000). The Commission is again grateful for this support.

It should be noted, however, that (except for the supplementary amounts to support the Rules Project), the Commission's budget has remained static for the past five years at the level of $250,000 per annum. The Commission has carefully managed its funds with the result that it has been able to maintain a reserve fund which at year end stood at approximately $14,000.

The Commission's financial statement for the year ending 31 March 2005 is attached to this report as **Appendix B**. The Commission posted a deficit in the current year of some $19,000 due in part to the need to address the issue of staff remuneration. The Commission's reserve fund was reduced by an equal amount and, as noted above, at year end stood at $14,116.68.

Although it was anticipated that the reserve fund might have been used in its entirety in 2004-05, the influx of some supplementary funds ($5,000) as well as careful management has meant that there continues to be a small reserve. As indicated, long standing staff remuneration issues were addressed in part in 2004-05. While the Commission expects to operate within its available resources in the upcoming fiscal year, funding beyond 2005-2006 has not yet been confirmed. Clearly this issue will need to be addressed early in the upcoming year.

C. THE YEAR AHEAD

The Commission will continue to support the Rules Revision Project in 2005-2006, but will also turn its attention to a resumption of its work reviewing the laws of Nova Scotia and making recommendations for their improvement. The Commissioners will meet early in the new fiscal year to consider project topics. Also early in the new year, meetings are scheduled with our partners, Saint Mary's University and with our sister law reform agencies at a Federation of Law Reform Agencies workshop.

Not for the first time, the funding of the Commission is a concern. In looking ahead, however, we are encouraged by the strong expressions of support shown in the fiscal year just ended by those who have funded us - support which we can only believe is due to the recognized quality of the Commission's work. We are particularly grateful for the support which we have received from the Attorney General, Michael Baker, Q.C. and his deputy, Doug Keefe, Q.C., the current and past Chief Justices of Nova Scotia, the Chief Justice of the Supreme Court, the Presidents of the Nova Scotia Barristers' Society and CBA, Nova Scotia Branch, the Dean of the Dalhousie Law School and many others who so willingly served on our Advisory Groups or otherwise supported the Commission and its work. We are confident that our work this past year has spoken well of our abilities and are optimistic that this will translate into continued financial support.

In summary, the 2004-2005 fiscal year was a positive one in which the Commission embarked on a new and interesting challenge as part of the Civil Procedure Rules Revision Project. This Project has allowed the Commission to work closely with the Bench and Bar, and to experience a broadening of our horizons - all of which was, of course, only possible with stable core funding. We enter 2005-06 with enthusiasm and energy for our work.

D. COMMISSIONERS AND STAFF

COMMISSIONERS

Anthony L. Chapman
Commissioner (2004 -)
Mr. Chapman was nominated to the Law Reform Commission by the Nova Scotia Barristers' Society in June 2004. He has been a member of the Nova Scotia Bar since 1980. A partner in the Halifax office of the law firm Cox Hanson O'Reilly Matheson, Mr. Chapman specializes in corporate/commercial law, real property law, secured transactions, and environmental law.

Thomas A. Cromwell
Commissioner (2002 -)
Mr. Cromwell was called to the Ontario Bar in 1979 and to the Nova Scotia Bar in 1984. In 1997, he was appointed to the Court of Appeal of Nova Scotia. Prior to his judicial appointment, he practiced law in Ontario and taught at the faculties of law at both Queen's and Dalhousie Universities.

Keith R. Evans
Commissioner (2002 -)
Appointed to the Commission in January 2002, Mr. Evans is the General Counsel for KMC Oiltools, an international fluid and waste management company. His extensive professional background includes work as a legal academic and practicing lawyer, both in Nova Scotia and overseas. Mr. Evans is President of the Commission.

Diana Ginn
Commissioner (2002 -)
Ms. Ginn was appointed by Order in Council in June of 2002. She is Associate Dean, Academic and an associate professor at the Faculty of Law, Dalhousie University, teaching in the areas of property law, administrative law, health law and women in the law. Ms. Ginn specializes in research and writing in these subject areas, and has published numerous articles.

Darlene Jamieson
Commissioner (2002 -)
The Council of the Nova Scotia Barristers' Society appointed Ms. Jamieson to the Law Commission Board in June of 2002. She has been a Partner in the law firm Merrick Jamieson Sterns Washington & Mahody since 1998 with preferred areas of practice being civil litigation, including insurance, banking, construction and employment law. She has held numerous and varied posts with the Nova Scotia Barristers' Society.

Donald H. McDougall, Q.C.
Commissioner (2002 - 2004)
The Council of the Nova Scotia Barristers' Society appointed Mr. McDougall, a Partner in the firm Stewart McKelvey Stirling Scales, to the Board of the Law Commission in June of 2002. He earned his Masters degree at the University of London in England, and received his Queen's Counsel designation in 1982. Mr. McDougall was a founding Vice-President of Sport Nova Scotia, and has held various media-related posts. The Commission is grateful for Mr. McDougall's service to the Commission, which terminated in June 2004.

E. Arleen Paris
Commissioner (2002 -)
Ms. Paris was appointed to the Commission in January 2002. She is a retired medical laboratory technologist, who worked with the Nova Scotia Department of Agriculture and Fisheries, as well as at hospitals in Nova Scotia and New Brunswick. A resident of Truro, Ms. Paris is involved in a number of community activities.

STAFF

John E.S. Briggs
Executive Director & General Counsel
Mr. Briggs, a graduate of Carleton, Queens and Oxford universities, was called to the Bar in 1974. He has been Executive Director of the Commission since 2001, and also acts as Outside Counsel to the Federal Minister of Justice on alleged miscarriage of justice cases. Mr. Briggs holds membership in the law societies of Ontario and the Territory of Nunavut as well as Nova Scotia, and is the President of the Federation of Law Reform Agencies of Canada.

William H. Laurence
Legal Research Counsel
Mr. Laurence joined the Commission in September, 1998. He has a B.A. (Hon.) from Carleton University, and LL.B. from McGill University as well as an LL.M and M.L.I.S. from Dalhousie University. He worked as a legal researcher and practiced law before joining the Commission.

Mary Bowen
Administrative Assistant
Ms. Bowen joined the Commission in June of 2002. She has extensive experience in senior executive secretarial positions.

William H. Charles, Q.C.

Special Counsel

Mr. Charles is assisting the Commission on an as needed basis, particularly in support of the Rules Revision Project. He is a graduate of Dalhousie (where he was Dean of Law 1979-1985), Concordia, Harvard and Michigan universities. Mr. Charles was President of the Law Reform Commission from 1991 to 1995. He serves on a number of Boards and Councils in Nova Scotia.

Appendix A.

The Law Reform Commission Act

CHAPTER 17 OF THE ACTS OF 1990

An Act to Establish an Independent Law Reform Commission

Short title

1 This Act may be cited as the *Law Reform Commission Act*. 1990, c.17, s.1.

Interpretation

2 In this Act, "Commission" means the Law Reform Commission of Nova Scotia. 1990, c.17, s.2.

Law Reform Commission of Nova Scotia

3 There is hereby established a body corporate to be known as the Law Reform Commission of Nova Scotia. 1990, c.17, s.3.

Object of Commission

4 The object of the Commission is to review the law of the Province and any matter relating to law in the Province and to make recommendations for improvement, modernization and reform including, without limiting the generality of the foregoing, recommendations for

(a) development of new approaches to, and new concepts of, law that serve the changing needs of society and of individual members of society;

(b) clarification and simplification of the law;

(c) removal of provisions of the law that are outdated;

(d) improvement of the administration of justice;

(e) review of judicial and quasi-judicial procedures. 1990, c.17, s.4.

Composition of Commission

5 (l) The Commission shall be composed of not fewer than five nor more than seven commissioners who may be appointed, either on a full-time basis or a part-time basis, as follows:

(a) two members of the Nova Scotia Barristers' Society appointed by the Council of the Society;

(b) a judge of a court of the Province, appointed by the Governor in Council after consultation with the Chief Justice of Nova Scotia and the chief judge of the court of which the judge is a member;

(c) a full-time member of the Faculty of Law of Dalhousie University appointed by the Governor in Council after consultation with the Dean of the Faculty;

(d) a person who is not a graduate in law appointed by the Governor in Council;

(e) where the Governor in Council determines that the Commission is to be composed of more than five commissioners, one or two persons appointed by the Governor in Council.

Term of office of commissioner

(2) Each commissioner holds office for a term of three years, except that one of the first commissioners appointed by the Council of the Nova Scotia Barristers' Society and one of the first commissioners appointed by the Governor in Council shall be appointed for a term of two years.

Ceasing to be a commissioner

(3) A person ceases to be a commissioner where

(a) that person fails to attend three consecutive regular meetings of the Commission, except where the Commission by resolution excuses the absences; or

(b) the composition of the Commission ceases to comply with this Act as a result of the person ceasing to be a person described in clause (a), (b), (c) or (d) of subsection (1).

Casual vacancies

(4) Where a person ceases to be a commissioner for any reason other than the expiration of that person's term of office, the Governor in Council or the Council of the Nova Scotia Barristers' Society, as the case may be, shall appoint a person for the unexpired portion of the term.

Re-appointment of commissioner

(5) A commissioner whose term of office has expired may be re-appointed.

Expiry of term of office

(6) A commissioner whose term of office expires continues to hold office until a successor is appointed.

Vacancy

(7) A vacancy in the membership of the Commission does not impair the ability of the remaining members to act. 1990, c.17, s.5.

President of Commission

6 The commissioners shall appoint one of the members of the Commission to be the President of the Commission. 1990, c.17, s.6.

Remuneration and expenses

7 The President and other members of the Commission may be paid such remuneration and shall be paid such travelling and living expenses as may be determined by the Governor in Council. 1990, c.17, s.7.

Powers of Commission

8 (1) The Commission may

(a) receive and consider any proposals for the reform of the law that may be made to it by any person;

(b) initiate, carry out and direct such studies and research as are necessary to properly carry out its object;

(c) publish papers, studies or other documents prepared by or for the Commission;

(d) co-operate or enter into agreements with any organization that undertakes projects relating to the object of the Commission within or outside the Province;

(e) with the concurrence of the Attorney General and to the extent that the Commission is able to do so without, in its opinion, impairing its ability to carry out its object or duties, provide information, research material and study results and make recommendations to departments, boards and agencies of the Government of the Province concerned with the improvement, modernization or reform of laws;

(f) regulate its proceedings and provide generally for the conduct and management of its affairs;

(g) do such things and take such measures as the Commission considers advisable for the achievement of its object, including the making of by-laws.

Duties and further powers of Commission

(2) The Commission

(a) may make use of technical and other information, advice and assistance from departments, boards and agencies of the Government of the Province;

(b) shall undertake, at the request of the Attorney General, in a manner as determined by the Commission, the examination of particular laws or branches of the law and make recommendations for their improvement, modernization and reform. 1990, c.17, s.8.

Meetings of Commission

9 The Commission shall meet at least four times in each year. 1990, c.17, s.9.

Personnel

10 (1) An Executive Director and such persons as are required for the administration of this Act and the regulations shall be appointed by the Commission, in accordance with the *Civil Service Act*.

Function of Executive Director

(2) The Executive Director has the management, direction, control and administration of the day-to-day operations of the Commission.

Advisers

(3) Notwithstanding subsection (1), the Commission may engage, upon such terms and conditions as the Commission deems fit, the services of such professional persons, technical persons and experts to advise the Commission as the Commission deems necessary for the carrying out of its object. 1990, c.17, s.10.

Appropriation of money

11 (1) Money appropriated by the Legislature for the purpose of this Act shall be paid out by the Attorney General.

Law Reform Commission Fund

(2) The Commission shall maintain an account to be under the control and management of the Commission, to be known as the Law Reform Commission Fund, into which the Attorney General may pay from time to time any sum of money appropriated and into which may be paid any sum of money contributed as a grant or gift by any person, organization or body.

Use of money in Fund

(3) Except where a stipulation or condition is expressed in relation to a sum of money paid into the Law Reform Commission Fund, the money in the Fund may be used by

the Commission for the purpose of this Act. 1990, c.17, s.11.

Annual report to Attorney General

12 (1) The Commission shall report from time to time to the Attorney General and shall make an annual report to the Attorney General on the activities of the Commission.

Tabling of annual report

(2) The Attorney General shall table the annual report of the Commission in the Assembly, if the Assembly is then sitting and, if the Assembly is not sitting, within fifteen days of its next sitting.

Other report

(3) Where the Commission reviews, considers or inquires into a matter, the Commission shall make a report to the Attorney General with respect to that matter at the conclusion of its deliberations.

Publication of report

(4) The Commission may publish a report made pursuant to this Section. 1990, c.17, s.12.

Repeal

13 Chapter 251 of the Revised Statutes, 1989, the *Law Reform Act*, is repealed. 1990, c.17, s.13.

Proclamation

14 This Act comes into force on and not before such days as the Governor in Council orders and declares by proclamation. 1990, c.17, s.14.

Proclaimed	-	January 22, 1991
In force	-	February 1, 1991

Appendix B.

Financial Report for the 2004-2005 Fiscal Year

LAW REFORM COMMISSION OF NOVA SCOTIA
Balance Sheet as at 3/31/05

ASSETS		
CURRENT ASSETS		
Petty cash		25.00
Bank Operating Account	17,027.08	
Cashable GICs	125,000.00	
Total Cash		142,027.08
HST Receivable		4,529.65
GST Receivable		37.83
TOTAL CURRENT ASSETS		146,619.56
FIXED ASSETS		
Computer Equipment	19,059.16	
Accum Computer Equipment	-19,059.16	
Net Office Equipment		0.00
TOTAL FIXED ASSETS		0.00
TOTAL ASSETS		146,619.56
LIABILITIES		
CURRENT LIABILITIES		
Accrued Salary		7,502.88
UIC Payable	0.00	
CPP Payable	0.00	
Income Tax Payable	0.00	
Receiver General Payable		0.00
Accrued income		125,000.00
TOTAL CURRENT LIABILITIES		132,502.88
TOTAL LIABILITIES		132,502.88
EQUITY		
SURPLUS		
Surplus Beginning of Year		33,183.37
Surplus Current Year		-19,066.69
ACCUMULATED SURPLUS		14,116.68
TOTAL EQUITY		14,116.68
LIABILITIES AND EQUITY		146,619.56

LAW REFORM COMMISSION OF NOVA SCOTIA
Income Statement as at 3/31/05

REVENUE		
OPERATING INCOME		
Dept. of Justice Nova Scotia		130,075.00
NS Law Foundation contribution		125,000.00
Miscellaneous Income		30.42
Interest income		1,013.21
TOTAL CONTRIBUTIONS		256,118.63
TOTAL REVENUE		256,118.63
EXPENSE		
ADMINISTRATIVE EXPENSES		
Wages	178,328.20	
EI expense	3,094.22	
CPP expense	5,186.00	
Group insurance expense	8,594.22	
TOTAL PERSONNEL RELATED		195,202.64
Advertising		2,664.20
Commissioners fees & expenses		619.45
Electrical expense		1,003.99
Meeting costs		354.77
Library		3,802.06
Accounting fees		112.50
Membership dues		1,445.82
Professional fees		2,580.00
Computer software/supplies/repairs		1,351.32
Internet		2,014.40
Staff expenses		1,830.69
Rent	25,425.16	
Office equipment rental	3,267.08	
Insurance	1,135.00	
TOTAL PREMISES RELATED		28,827.24
Office supplies	1,913.43	
Parking	273.05	
Photocopy/printing	4,878.86	
Postage & courier	1,888.78	
Telephone expense	2,890.36	
Travel/conference/workshop	10,343.39	
Office Equip Maintenance	107.45	
TOTAL OFFICE RELATED		22,295.32
Bank charges		262.82
Miscellaneous		516.92
Contract Research		5,730.00
HST paid on purchases		4,528.45
GST paid on purchases		42.73
TOTAL ADMINISTRATION		275,185.32
TOTAL EXPENSE		275,185.32
NET INCOME		- 19,066.69

Appendix C.

List of Publications (by project) 1991-2005

Law Reform Commission Publications

(As of March 31, 2005)

Administrative Justice System

(Agencies, Boards and Commissions - ABC Report)

- *Agencies Boards and Commissions: The Administrative Justice System* (Discussion Paper, January 1996)
- *Reform of the Administrative Justice System in Nova Scotia* (Final Report, January 1997)

Adult Guardianship/Advance Health Care Directives

- *Adult Guardianship in Nova Scotia* (Discussion Paper, September 1993)
- *Living Wills in Nova Scotia* (Discussion Paper, November 1994)
- *Adult Guardianship and Personal Health Care Decisions* (Final Report, November 1995)

Domestic Violence

- *Violence in a Domestic Context* (Discussion Paper, March 1993)
- *From Rhetoric to Reality, Ending Domestic Violence in Nova Scotia* (Final Report, February 1995)

Enduring Powers of Attorney

- *Enduring Powers of Attorney in Nova Scotia* (Discussion Paper, June 1998)
- *Enduring Powers of Attorney in Nova Scotia* (Final Report, September 1999)

Enforcement of Maintenance Obligations

- *Enforcement of Maintenance Obligations* (Discussion Paper, July 1992)
- *Enforcement of Maintenance Obligations* (Final Report, November 1992)

Future of the Law Reform Commission

- *A Continuing Need for Law Reform: The Case for the Law Reform Commission of Nova Scotia* (Report, December 2001)

Interim Payment of Damages

- *Interim Payment of Damages* (Discussion Paper, January 2000)
- *Interim Payment of Damages* (Final Report, February 2001)

Jury System

- *Reform of the Jury System in Nova Scotia* (Discussion Paper, May 1993)
- *Reform of the Jury System in Nova Scotia* (Final Report, June 1994)

Matrimonial Property

- *Matrimonial Property in Nova Scotia: Suggestions for a New Family Law Act* (Discussion Paper, April 1996)
- *Reform of the Law Dealing with Matrimonial Property in Nova Scotia* (Final Report, March 1997)

Mechanics' Lien Act

- *Builders' Liens in Nova Scotia: Reform of the Mechanics' Lien Act* (Discussion Paper, January 2003)
- *Builders' Liens in Nova Scotia: Reform of the Mechanics' Lien Act* (Final Report, June 2003)

Mental Health Provisions

- *Mental Health Provisions of the Hospitals Act* (Discussion Paper, September 2000)
- *Mental Health Provisions of the Hospitals Act* (Final Report, February 2002)

Mortgage Foreclosure and Sale

- *Mortgage Foreclosure and Sale* (Discussion Paper, July 1997)
- *Mortgage Foreclosure and Sale* (Final Report, September 1998)

Privity of Contract

- *Privity of Contract (Third Party Rights)* (Discussion Paper, March 2004)
- *Privity of Contract (Third Party Rights)* (Final Report, August 2004)

Probate

- *Probate Reform in Nova Scotia* (Discussion Paper, March 1998)
- *Probate Reform in Nova Scotia* (Final Report, March 1999)

Status of the Child Born Outside Marriage

- *The Legal Status of the Child Born Outside of Marriage in Nova Scotia* (Discussion Paper, August 1993)
- *The Legal Status of the Child Born Outside of Marriage in Nova Scotia* (Final Report, March 1995)

Structured Settlements

- *Court-ordered Structured Settlements for Personal Injury Damage Awards* (Background Paper, August 2004)

Tortfeasors

- *Joint Tortfeasors & the Common Law "Release Bar Rule"* (Final Report, July 2002)

***Wills Act*:**

- *Reform of the Nova Scotia Wills Act* (Discussion Paper, July 2003)
- *Reform of the Nova Scotia Wills Act* (Final Report, November 2003)

Thirteen Annual Reports

- April 1, 1991 - March 31, 1992
- April 1, 1992 - March 31, 1993
- April 1, 1993 - March 31, 1994
- April 1, 1994 - March 31, 1995
- April 1, 1995 - March 31, 1996
- April 1, 1996 - March 31, 1997
- April 1, 1997 - March 31, 1998
- April 1, 1998 - March 31, 1999
- April 1, 1999 - March 31, 2000
- April 1, 2000 - March 31, 2001
- April 1, 2001 - March 31, 2002
- April 1, 2002 - March 31, 2003
- April 1, 2003 - March 31, 2004